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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,577	12/26/2001	Harald Jakob	215641US0X	7950
22850	7590	04/30/2004	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			LISH, PETER J	
			ART UNIT	PAPER NUMBER
			1754	

DATE MAILED: 04/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/025,577	Applicant(s) JAKOB ET AL.	
	Examiner Peter J Lish	Art Unit 1754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments with respect to the rejection over Nakagawa et al. have been fully considered and are persuasive. The products of Nakagawa et al. clearly show a reduction in oxygen content, whereas those of the presently claimed invention do not. The rejection of claims 7 and 11 over Nakagawa et al. has been withdrawn.

Applicant's arguments with respect to the rejection over Britchard et al. have been fully considered but they are not persuasive. Applicant's amendment to overcome this rejection is not considered persuasive as it represents new matter. The rejection therefore is maintained.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-2 and 4-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not contain or support the negative limitation of performing the process specifically without adding a coating agent. If applicant wishes to

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exclude the use of a coating agent, it is suggested that the phrase "consisting essentially of" be used.

In order to speed prosecution, this office action includes rejections which are necessitated by the effective amendment.

Claim Rejections - 35 USC § 103

Claims 1-2, and 4-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Britchard (US 4,421,669).

The rejection of the previous office action is maintained in its entirety and incorporated herein by reference.

Claims 1-2 and 4-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over James et al. (US 5,556,834).

James et al. teaches a method of coating and subsequently drying sodium percarbonate particles. The drying step comprises thermally treating the particles in a fluidized bed reactor and providing a constant flow of air to keep the bed at a desired temperature between 50 and 90 °C. The duration of the drying stage is not explicitly taught, however, it is usually determined by such practical considerations as, amongst others, the amount of coating agent solution being applied per unit weight of percarbonate, the residual content of moisture that will be tolerated, the temperature and moisture content of the influent fluidizing gas, whether additional heating is employed for the bed and the rate at which the gas flows through the bed. It will accordingly vary from apparatus to apparatus and be capable of control by a skilled person in the art with

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the aid of preliminary ranging trials. Therefore, it would have been obvious to one of ordinary skill at the time of invention to apply the drying treatment for a desired time period in order to bring about the most stable percarbonate particles. The selection of a desired treatment time that meets the claimed range is considered to be the optimization of a known process, which could have been determined through routine experimentation, and which is held to be obvious be *In re Boesch*, 205 USPQ 215.

Furthermore, regarding the limitation that the percarbonate be treated by the instantly claimed invention immediately after drying, examiner notes that the degree of drying is not stated. Different residual moisture contents are acceptable for sodium percarbonate, therefore, whereas one may consider the percarbonate “dried” at a 4% residual moisture content, another may require a 0% residual moisture. Applicant does not distinguish. As no difference is seen between the process of drying taught by James et al. and the process of the instantly claimed invention, it is determined that somewhere in the treatment of James et al., the “drying” ceases and the “stabilizing” of the instantly claimed invention begins.

While James et al. does not explicitly teach that the active oxygen content of the sodium percarbonate is maintained, it is expected that this be the case, as no difference is seen between the treatment of James et al. and that of the instantly claimed invention. While James et al. does not explicitly teach the manner by which the air is heated, it would have been obvious to one of ordinary skill at the time of invention to use any conventional means of heating air, such as the use of hot process, or flue, gas streams.

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Claims 1-2 and 4-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klasen et al. (US 5,632,965).

Klasen et al. teaches a method of coating and subsequently drying sodium percarbonate particles. The product removed from the coating process, which had a residual dampness of 7% by weight, was dried in a multistage fluidized bed drier with the temperature profile in the fluid bed rising from 40 to between 80 and 85 °C, while temperatures as high as 90 °C are taught.

The duration of the drying stage is not explicitly taught, however, it would have been obvious to one of ordinary skill at the time of invention to apply the drying treatment for a desired time period in order to bring about the most stable percarbonate particles. The selection of a desired treatment time that meets the claimed range is considered to be the optimization of a known process, which could have been determined through routine experimentation, and which is held to be obvious be *In re Boesch*, 205 USPQ 215.

Furthermore, regarding the limitation that the percarbonate be treated by the instantly claimed invention immediately after drying, examiner notes that the degree of drying is not stated. Different residual moisture contents are acceptable for sodium percarbonate, therefore, whereas one may consider the percarbonate “dried” at a 4% residual moisture content, another may require a 0% residual moisture. Applicant does not distinguish. As no difference is seen between the process of drying taught by Klasen et al. and the process of the instantly claimed invention, it is determined that the drying step of Klasen et al. takes place between 40 and 80 °C, while the “stabilizing treatment” takes place above 80 °C.

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While the use of air as the fluidizing gas is not explicitly taught by Klasen et al., it would have been obvious to one of ordinary skill at the time of invention to use air as the fluidizing gas in the process of Klasen et al., as is known in the art.

While Klasen et al. does not explicitly teach that the active oxygen content of the sodium percarbonate is maintained, it is expected that this be the case, as no difference is seen between the treatment of Klasen et al. and that of the instantly claimed invention. While Klasen et al. does not explicitly teach the manner by which the air is heated, it would have been obvious to one of ordinary skill at the time of invention to use any conventional means of heating air, such as the use of hot process, or flue, gas streams.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J Lish whose telephone number is 571-272-1354. The examiner can normally be reached on 9:00-6:00 Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley Silverman can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PL



STUART L. HENDRICKSON
PRIMARY EXAMINER